

Docket No.: PF-0442-2 DIV

CERTIFICATE OF TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the attention of Examiner Sheela J. Huff, Group Art Unit 1642, U.S. Patent and Trademark Office to Facsimile No. 703-305-7866 on the date shown below.

Signature

Sheela J. Huff

Date November 27, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Fisher et al.

Title: CYCLIC GMP PHOSPHODIESTERASE

Serial No.: 09/802,741

Filing Date: March 08, 2001

Examiner: Huff, S.

Group Art Unit: 1642

Commissioner for Patents
Washington, D.C. 20231

TERMINAL DISCLAIMER UNDER 37 CFR § 1.321

Sir:

Petitioner, Incyte Genomics, Inc., formerly known as Incyte Pharmaceuticals, Inc., a Delaware corporation, having a place of business at 3160 Porter Drive, Palo Alto, California 94304, is the owner of the entire interest in the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, of prior U.S. Patent No. 5,922,595, issued on 13, July 1999. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of U.S. Patent No. 5,922,595, in the event that U.S. Patent No. 5,922,595 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned (whose title is supplied below) represents that he/she is a representative authorized to sign on behalf of Petitioner.

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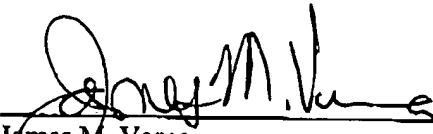
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The Commissioner is hereby authorized to charge the fee for filing a Terminal Disclaimer under 37 CFR § 1.20 for the amount of \$ 110.00 to Deposit Account No. 09-0108, as set forth in the accompanying transmittal letter. If the Commissioner determines that additional fees are due or that an excess fee has been paid, the Patent Office is authorized to debit or credit (respectively) Deposit Account No. 09-0108.

November 27, 2002
Date


James M. Verna
Attorney for Petitioner
Reg. No. 33,287